



STUDENT PRESS LAW CENTER
REPORT
FALL 2017 VOL. XXXVIII, NO. 3

BANDWIDTH

Radio stations still have a chance at weaving themselves into campus culture and events, but now more than ever they need to be different.

REPORT

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The Student Press Law Center *Report* (ISSN 0160-3825), published three times each year by the SPLC, summarizes current cases and controversies involving the rights of the student press. The *Report* is researched, written and produced by journalism interns and SPLC staff.

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Project Attorney: Mike Hiestand

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FIND MORE ONLINE

With student press, there's always more than meets the eye. Don't forget that this content, and more, is available online at splc.org

Be sure to check out:

- **On Covering DACA, from one undocumented student journalist:** An SPLC intern shares her personal story as an undocumented student to frame the discussion around immigration and discuss journalists' responsibilities.
- **Internships:** Catch our regular updates on available spring and summer internships and fast-approaching due-dates.



FROM FORMER EXECUTIVE DIRECTOR
FRANK LOMONTE

Turning the Page

Q&A with new SPLC Executive Director Hadar Harris

In March 2017, we announced that long-time Executive Director Frank LoMonte would be leaving the SPLC to take up a new post – leading the University of Florida’s Brechner Center for Freedom of Information.

Thus began the search for a new executive director to lead the SPLC into the next era of championing student expression and challenging official censorship.

We found that leader in human rights attorney Hadar Harris.

The following interview between Frank and Hadar has been edited for length and clarity. Hear it in full at:

splc.org/multimedia/1580.

Frank LoMonte: It is my distinct honor and pleasure to be passing on the baton to a really, really amply qualified successor, one that we’re really incredibly excited about: Hadar Harris, who is joining me today to talk about her plans as the new executive director of the Student Press Law Center.

Hadar Harris is by far the best prepared, best qualified, best credentialed person ever to lead the Student Press Law Center at a time of enormous change and enormous opportunity in the field. She comes to us with degrees both from Brown University and the UCLA School of Law. She has worked as an educator, as an activist, as an advocate at the highest levels of public policy including for the U.S. House of Representatives.

She’s worked on the international as well as the domestic scene. We’re just absolutely thrilled and overjoyed to have her as the Executive Director.

Hadar Harris: Frank, thank you so much, both for all the service that you have done to build SPLC to the organization it is, and to do these podcasts, which you’ve been doing for such a long time. I’m thrilled to be here, I’m thrilled to be talking to you, and I’m a little bit worried about

following in your very big footsteps!

Frank: Not at all! Let’s give the folks a little more background on the work that you’ve done and what brings you here. You’ve spent most of your life working in the field of human rights law. What has motivated and driven you to do that kind of legal work?

Hadar: So, in terms of what motivates me to do the work that I do, I’m motivated by the fact that we see injustice in the world every day and everywhere we look and if we open our eyes to it we can be motivated by the idea that we can fix it.

Openness and transparency and expression are fundamental human rights, they’re also integrated with each other. We can’t do other kinds of advocacy to change the world without being able to expose issues that are difficult.

So, when I think about what motivates me to do human rights issues I also think about it through the frame of the work SPLC does and the fact that SPLC works to open up the eyes and create an atmosphere of transparency and accountability and expression.

So, I’m very excited to bring kind of the work and the background and the framework of human rights to the work that the SPLC has done on a domestic level to integrate both domestic law and a human rights frame around freedom of expression, freedom of association and the right to information as we move ahead.

Frank: Well given that background and given that history of working at the international level with human rights, what will it be to you at this time in your career and this point in history to make this pivot and join the Student Press Law Center. What attracted you to this particular opportunity?

Hadar: What’s interesting about it, and I kind of stopped for a second in talking about this fundamental precept of all human beings being created free and equal in dignity and rights. So, when I teach, and I do trainings, I often talk to people about

what’s the most important human right? What’s the most important thing? And it’s interesting to see where people come down.

Sometimes they talk about right to life, sometimes they talk about the right to a healthy environment – because you need to breathe air and you need to drink water – but more and more often it’s around freedom of expression and freedom of association. So, what drew me to SPLC and what drew me to this sort of work is both the mission and the potential of this moment.

I have been a student leader and I have worked with students for my entire career and I know that students are at the front line. I also know that students have the best new ideas and energy and enthusiasm to make real change.

I want to support the work of student journalists. I want to think broadly about how that work relates to how we engage as a society – civil engagement, civil society. I want to be able to work together with some of the best and the brightest and the most committed students and staff and board members, and I know that that’s what we have at the SPLC and I’m really looking forward to diving in deep with a great crew.

Frank: Well you’ve worked in some really challenging environments in some countries where people are facing literally life and death challenges and where human rights law can sometimes be a life saver and the difference between life and death. I’m wondering how you see the challenges that students and educators and journalists in this country and at this time in our history and maybe if there’s anything in your background and your experience that you liken it to or compare it to.

Hadar: Well I hope that I don’t have to compare it to some of the worst places in terms of places like Azerbaijan where journalists are being rounded up and put in jail and tortured. I don’t think we’re at that level, and I hope that we never will get to that level, but this is a critical moment when we think about journalism



and independent media and the ways in which our country and media consumers are really understanding what truth is and what good, concrete journalism is all about.

I think that journalists right now are facing an almost existential threat to their independence, their credibility and we're in this crazy destabilizing era of people asking, "what is truth?" Facing accusations of fake news and the understanding of having a credible, engaged, critical community of journalists is really kind of under attack.

At the same time, we have all of these well-publicized issues around free speech on campus, debates around censorship and critical inquiry and student journalists are really on the front line of all of this. A lot of those issues aren't new, but the context that we're operating in feels new.

There are many strategies for how you confront the worst types of censorship or the lack of access to information and there are a lot of strategies that SPLC has helped to forge and to promulgate and to promote, and there's a lot more strategies that we're going to have to create and that we're going to have to contextualize and that we'll have to move forward in the coming days.

Frank: One of the challenges of any nonprofit organization, and particularly one like the SPLC that is sort of small and dependent on donor funding, is that the enormity of the mission can engulf the size of the staff and the size of the financial support. So, with that in mind, where do you see the role of the SPLC? Where do you see us fitting into the universe of comparable organizations, and do you have any particular thoughts — understanding that you're brand new in this job — about direction in general or about new emphases, new priorities that you might bring to the organization?

Hadar: I think it's really important as the new executive director, coming in to an organization with an established track record that we honor and that we value and that we stay true to the core of what

the organization is.

It's been described to me by a number of people, the SPLC's work has been like being the fire department: putting out fires as they erupt. Maybe right now we have to think about being more like being the cavalry. (Although I reserve the right to change that metaphor as I get more deeply into the job.) And maybe taking more of a proactive role in helping to define the debates.

One of the things that the New Voices initiative has been able to do in working on supporting legislative changes state-by-state to ensure that students have the right to publish and have information and do the work they need to do, is to do that, take a more proactive role. As you know, because you've been working in this field for so long, critical inquiry and exacting journalism by students and by young people is such an important part of encouraging civil engagement and a robust civil society — it's really what I talk about with promoting freedoms of expression and association.

I think sometimes we think too much about being a small organization. I actually think this organization has tremendous impact and tremendous potential to reach even more broadly in the work that we do inside of this larger frame of civic engagement and support for journalism at all levels, the student level being the first line, but where our students go after they graduate from high school and college is really important, and the fundamentals that they get around learning to be good journalists, learning to be engaged civic actors is critically important to how they operate within the country later.

Frank: One of the many wonderful amazing things about this organization is the ownership that people feel in it. There are so many teachers, students, alumni, people who've come through the doors of SPLC as interns or as law students, who really feel like it's their organization. And for those people out there, how can they be helping you? How can they best be of service to you as the new director and to this organization as it meets the challenges

that you've been outlining?

Hadar: Well first and foremost, I want to hear from them — to hear about their ideas, hear the things that SPLC has been most valuable to them in helping them with, in helping them think through, in helping them to understand. Their ideas about ways in which SPLC can have an even greater impact. I look forward to being out and about meeting people, both in person and virtually, the power of Skype and the power of Google Hangouts is tremendous in being able to make connections with people all across the country and to learn from them, and to have conversations about what SPLC has done, what we could be doing, what needs exist that haven't yet been filled, what we might be able to do to expand the reach of our organization to raise its profile beyond those who already know what we do and become even more indispensable in the fight against censorship.

Of course the other thing that people can do is to actually donate or to open doors to us to help spread the word about the great resources that we have and to use them. I think it's a credit to you, Frank, and to the staff and board members and volunteer attorneys who have worked so hard in creating tremendous content on the website. And so, we hope that people will use those resources and help us to build our network of alumni, supporters, donors so that we can make sure we have the greatest impact possible at a time where an organization like SPLC becomes more critically important.

So, we have a long history, but we have a long way to go. And what's great is to know that we're poised to be able to jump into whatever is ahead in the years to come because of the great work that you've done, Frank, that your predecessors have done and the great students and staff and board and volunteer attorneys have done over time. I'm really excited about this opportunity. **-30-**

NEW CLASS...

Flickr / M M CC by SA 2.0



Big plans made in the Big Apple!

August 17-20, we brought our new class of Active Voice Fellows to New York City for training, touring, and camaraderie.

Over the coming year, each of the five fellows will develop and enact service projects to engage and empower young women in their communities.

NEW CHALLENGES.



Savannah Robinson
Junior
University of Southern California



Melissa Gomez
Senior
University of Florida



Jamie Crockett
M.A. Candidate
University of Missouri

From audio storytelling...

To video production.

From the local high school...

To the state capitol.



Paula Pecorella
Senior
Stony Brook University



Naba Siddiq
Sophomore
Texas Tech University

This year's fellows are leading the charge to develop thriving newsrooms driven by enterprising young women. Follow their work at theactivevoice.org





BANDWIDTH

Radio stations still have a chance at weaving themselves into campus culture and events, but now more than ever they need to be different. We shouldn't mourn just yet.

By Shine Cho

New York University's head of the Steinhart Music Business program, Larry Miller, does not see things going well for the radio industry. In a 30-page report he published on Aug. 30, he forecasts that the industry will need to adapt to the interests of "Generation Z" if it wants to survive. Gen Z, those born in and after 1995, are today's teenagers and tomorrow's college students, and this has particular implications for college radio stations.

"Having grown up as true digital natives, this generation [Gen Z] is uninterested in AM/FM radio and prefers the increased interactivity and personalization of digital services like Spotify and Pandora," Miller's report read.

His focus on the generation following the millennials is an intriguing approach to projecting the future of today's bastion industries. By 2020, Gen Z will compose 40 percent of all consumers in the US market, and, invariably, their interests and demands will influence what kind of services are offered. Miller argues that radio will not be ranked as a priority on their list of demands after analyzing

how teens listen to their music today.

According to Music Watch, teens age 13 to 17 prefer streaming services like Spotify and Apple Music to the traditional form of radio. When surveyed in 2016, the Music Watch study found that 41 percent of teens stream their music versus 13 percent who use radio. While 13 percent might be considered a significant portion of those surveyed, only 1 percent responded they go onto websites for AM/FM station streaming. For context, 1 percent selected they listen to vinyl.

Miller's paper also included data on car technology that could soon leave radio behind. Writing that radio has had a "stranglehold on in-car listening" in older car models, Miller believes that the radio industry is in for a battle with new cars providing other listening options. Americans are due for trading in their cars soon. In 2016, the typical car was 11.6 years old.

"The car is ceasing to be AM/FM radio's exclusive, walled garden of captive audiences and limited choices," said the report.

This can be concerning for college stations whose frequencies reach nearby community members

beyond the perimeters of campus. If an FM stereo is no longer a feature in newer cars, college stations will not be able to reach as many new listeners.

The National Association of Broadcasters has disputed Miller's paper in a public statement the day after the study was released. NAB's Dennis Wharton, the Executive Vice President of Communications, called Miller's report "silly" and argued that teenagers are listening to radio in larger numbers than ever before. Wharton also contended that car makers will be slow to phase out the radio feature and shouldn't be seen as a threat to the radio industry.

But what Wharton didn't address was the fact that so many teens prefer newer listening forms to radio. These challenges, a younger demographic's tastes that don't align with traditional media and technology, await college radio stations. Some have already caved to these issues in one form or another.

Tuning Out

Beginning in 2010, several colleges sold their FCC licenses to larger broadcasting companies. Most commonly, National Public Radio affiliates and religious organizations doled out chunks of change for college stations. In 2011, Nashville Public Radio bought WRVU's license of Vanderbilt University for \$3.35 million to play classical music 24/7. More recently, Northern Kentucky University's station, WNKU, went off the air on Aug. 18 and turned over to Bible Broadcasting Corporation for \$1.9 million.

Vanderbilt Student Communications, the nonprofit overseeing WVRU, decided to sell the license after poll results showed that fewer students were tuning in, according to Pitchfork. As for Northern Kentucky University, its board of regents announced the sale in Feb. 2017 citing budgetary concerns. The station accrued a \$2.6 million deficit over the last five years.

These price tags of stations for at least \$1 million are due to the very limited supply of FCC licenses available today. The frequencies of these college stations are attractive to larger broadcasting companies to expand their audience. On the other end, these transactions are attractive to colleges with licenses for fast cash, especially in a case like

NKU's if the station is in debt. However, once the license is sold, the likelihood of getting it back is very slim.

Tuning In

Despite newer means of listening to music and recent sales of stations, Jennifer Waits, cofounder of Radio Survivor and its current College Radio and Culture Editor, believes that college stations are thriving. We just don't typically hear about them on their good days.

"College radio doesn't really get written about and when it does get written about, it tends to be when something dramatic happens and the most dramatic thing is possibly getting your license sold. That's when we're hearing about college radio," Waits said. She has been closely watching the college radio industry since 2009 and visited more than 100 stations across the country.

Waits doesn't underestimate the creativity of students, especially when it comes to technology.

"Students are often on the forefront of technology. From the very beginning you see college radio stations doing very innovative things," Waits said. "College radio stations were the first to do live streaming of audio. What we take for granted now, where you can listen online, it was college radio stations who did that first."

She's right. It wasn't the major network iHeartRadio but WXYC of the University of North Carolina at Chapel Hill. WXYC was the first to stream radio online in 1994 though Georgia Tech's WREK had been experimenting since 1993. WREK is entirely student run and engineered and serves the Atlanta area. It's the child of STEM majors and eclectic music lovers. And from its start in 1968, the station has continued to grow thanks to the backing of inventive students and supportive alumni. After being one of the first stations in the country to introduce online audio streaming, in 2011 it increased its wattage from 40,000 to 100,000 – the FCC's limit.

"There's a lot that students do from anything from software and hardware fixes to making business decisions," said Sheena Ganju, WREK's general manager. Part of the station's philosophy is to "represent the full spectrum of musical expression"

and “bring less popular forms of music into public consciousness.” Though she’s not too concerned about budget issues, thanks to receiving the majority of the station’s funding from the university, reaching more students is on Ganju’s mind.

The station has experimented online through other audio platforms. Though now a struggling platform, the station uses SoundCloud for sports news and interviews. The station also broadcasts through mobile apps. Ganju wants to focus more on social media and unique content. Especially at Tech, where over half of all students study engineering, she says students appreciate WREK’s eclectic music scene. “Having that diversity in media at Tech is so, so important,” Ganju said.

Amping Up

College radio is a local plug for students on campus to receive news and programming not offered by larger networks. KUNV of the University of Nevada in Las Vegas, has been tapping into its power of local relevance to hold its audience.

Run by more than 150 students and some professional staff, it’s hard to imagine how a station attracting 60-70,000 weekly listeners almost lost its license a few years ago. After the university’s board of regents considered selling the license to Nevada Public Radio, students packed board meetings in December 2015 to advocate for the station’s independence, according to Radio Survivor. Their efforts paid off. The board discontinued the sale and the student government provided a \$50,000 sponsorship.

Since then, the station has been focusing on serving the community through putting out programming unique to the UNLV student experience. This fall, the station is launching a new podcast series following students who are first in their families to attend college. Called “UNLV: Different, Daring, Diverse,” students will produce the series.

The station has also positioned itself to be a strong

resource for the school’s journalism department. Frank Mueller, KUNV’s general manager, has been with the station for more than a decade and also teaches in the journalism school. When he

first arrived, there was only one class for audio production. Now, there are three that depend on the station’s resources. For KUNV, this has become a central selling point of the station’s relevance to the university by giving hands-on experience to students interested in

“What we take for granted now, where you can listen online, it was college radio stations who did that first.”

Jennifer Waits, cofounder of Radio Survivor, an online news source focusing on radio developments

audio storytelling.

“As universities look at what value a broadcast license provides for them, there’s a lot of conflicting voices out there and I understand the different perspectives that people are coming from,” Mueller said. “I think that a radio station still provides a huge opportunity for a university.”

Beyond the educational lessons students can receive from having a station’s equipment and knowledgeable staff as resources, stations can contribute to what makes a college experience unique. **-30-**

On covering DACA, from one undocumented student journalist



This fall, SPLC intern Shine Cho “came out” as a DREAMer after she was asked to write an editorial for her former high school newspaper. You can read her message at splc.org, including a link to her op-ed, “A letter from a South Pasadena Dreamer,” at tigernewspaper.com.

RACE AND COLLEGE ADMISSIONS

THE NEWS ANGLE

A white applicant rejected from the University of Texas-Austin, Abigail Fisher, filed suit in 2008 arguing that the college's race-conscious admissions practices violated the Equal Protection Clause. UT has a hybrid admissions system under which the top graduates from Texas high schools are automatically accepted, and the remaining seats go through an individualized consideration process that can include race and ethnicity.

The case first arrived at the Supreme Court in 2013, which reached an inconclusive result sending the case back to a lower court. The ruling was interpreted at the time as setting a nearly impossible hurdle for college to justify affirmative action in admissions.

But on June 23, 2016, the Supreme Court (with a vacancy left by the death of Justice Antonin Scalia, and Justice Elena Kagan ineligible to vote because of a conflict) decided 4-3 that the UT-Austin admissions policy is constitutional. Justice Anthony Kennedy, whose swing to the liberal side made him the decisive vote, wrote the majority's opinion, saying: "Considerable deference is owed to a university in defining those intangible characteristics, like student body diversity, that are central to its identity and educational mission." A dissenting justice, Samuel Alito, called the decision "affirmative action gone berserk."

In the aftermath of the Fisher case, colleges have more leeway to expressly incorporate race and ethnicity as factors in admission decisions, if they can show that the practice is necessary to achieve a diverse student body.

MAKING IT LOCAL

If you're at a public institution that must respond to requests for open records, ask to see any studies or reports about the use of race in your own institution's admissions policies, as well as any recent revisions in those policies. Statistics about the racial composition of the student body should be readily provided at any institution, public or private, and are also available from third-party sources including the U.S. Department of Education's Office of Civil Rights.

CHEAT SHEET

RESOURCES FOR REFERENCE

The authoritative Supreme Court commentary site, SCOTUSblog, posted a chronology of the *Fisher* case including links to more than 80 friend-of-the-court ("amicus") briefs filed by outside experts, most of them supporting the University of Texas' admissions system. These briefs are useful for locating expert individuals and organizations.

scotusblog.com/case-files/cases/fisher-v-university-of-texas-at-austin-2/

Harvard's Nieman Foundation curates academic research about race and college admissions that journalists may find helpful.

journalistsresource.org/studies/society/race-society/affirmative-action-in-university-admissions-research-roundup

The National Conference of State Legislatures tracks state statutes by topic, including statutes about college admission standards.

ncsl.org/research/education/affirmative-action-state-action.aspx

Academic experts on the law of college admissions include (in support of considering race as a factor)

- Prof. Sheryll Cashin at Georgetown University
- Prof. Eboni S. Nelson at the University of South Carolina
- Prof. Cedric Merlin Powell at the University of Louisville

(in opposition to considering race as a factor)

- Prof. Gail Heriot at the University of California-San Diego
- Prof. Richard H. Sander at the University of California-Los Angeles
- Prof. R. Lawrence Purdy at the University of St. Thomas in Minnesota

Advocacy organizations that have participated in past Supreme Court cases and may be sources for journalists include (in support of considering race as a factor) the NAACP Legal Defense Fund and the Racial Justice Project at New York Law School, and (in opposition to considering race as a factor) the Pacific Legal Foundation and the Claremont Institute's Center for Constitutional Jurisprudence.



How to cover DACA as a student journalist: advice from professionals

By Emily Goodell

In the wake of President Donald Trump's controversial decision to end the Deferred Action for Childhood Arrivals program, high schools and universities across the country erupted in protest.

This leaves student publications with a serious question: how do you cover DACA in a way that is legal, ethical and engaging? Here's what the experts had to say.

DINA HAYNES — NEW ENGLAND SCHOOL OF LAW

Immigration lawyer and law professor at New England School of Law Dina Haynes said student journalists need to consider the legal situation DACA recipients are in when reporting their stories.

"If I were the lawyer for the student in question, whose name was going into the paper, I would not advise them to have their name in the paper," Haynes said.

Haynes said although the Department of Homeland Security has access to DACA recipients' names and addresses, having their identity made public is still a risk. One concern for DACA students is that they may be living in households with undocumented family members, who could have legal action taken against them if their identities were revealed, she said.

She would advise student journalists not to print the names of DACA students under 18 and would advise students to only print the name of a DACA recipient over 18 if the recipient has already consulted with legal counsel.

Haynes said student journalists should press school administrations that have made statements declaring their schools sanctuary campuses and ask what the school means and what they are willing to do to back up their statement.

She said oftentimes declaring a school to be a sanctuary campus is, "a lovely moral sentiment, but has no legal value." The chief tool schools can have in protecting their DACA students is not to ask if they are DACA students, not to collect or store or volunteer that information, she said.

DAXTON "CHIP" STEWART — TEXAS CHRISTIAN UNIVERSITY

Daxton "Chip" Stewart teaches media law and ethics at Texas Christian University.

Stewart said that student journalists considering the use of anonymous sources in relation to DACA coverage should look into their states' shield laws.

Stewart said that in his interpretation of shield law in Texas, protections given to reporters who use unnamed sources would not extend to student journalists.

However, Stewart said although there's the possibility of legal repercussions for student journalists reporting on DACA, such as being subpoenaed to testify at legal proceedings, the bigger concern is the safety of sources who use the DACA program.

"My biggest worry is that journalists may inadvertently expose sources to scrutiny," Stewart said.

Stewart said that student journalists have less to fear in the realm of government entities requesting they give them information about their unnamed sources than they do with

other politically-motivated groups coming after their named sources.

TYLER FLEMING — THE DAILY TAR HEEL

Editor-in-chief of the University of North Carolina's student newspaper, The Daily Tar Heel, Tyler Fleming wrote a column titled, "Ending DACA hurts student journalism" where he said that diversity is good for journalism and that this decision will limit campus diversity.

"Leading a student newspaper, you see firsthand that having a predominantly white staff makes it difficult to cover in Hispanic and person-of-color communities," Fleming said. "It's rough because you don't have the same perspective or the same ins with the community. It's hard to get on that beat and build trust."

Fleming said the reaction from the student community to his column has been overwhelmingly positive. However, he said he had received some criticism that as the editor-in-chief of a student publication he made a political statement.

He said that if the DACA situation would have no impact on student journalism, he would have probably left writing a column to the regular columnists on staff. However, because his duty as editor is to provide the opportunity for voices to be heard, he said he felt it necessary to speak out.

"I don't think that a qualified, young student journalist should be denied an opportunity to learn journalism just because they don't have citizenship," Fleming said.

Fleming said part of the role of student journalists in reporting on DACA is to write objectively and continue to cover the story, especially because being on campus gives student journalists greater access to DACA students than other publications.

KRISTIAN RAMOS — DEFINE AMERICAN

Communication director for the nonprofit advocacy organization Define American Kristian Ramos had several key pieces of advice for student journalists covering DACA.

Ramos' said the first piece of advice he would give to student journalists is to humanize the DACA story and talk to people involved.

"Please ground the story in people rather than politics," he said.

Ramos said it's important for student journalists to not only address DACA recipients, but to interview those around them: teachers, friends, family and coworkers.

Ramos also suggested student journalists to orient DACA recipients' roles in the community. Instead of identifying a source only as DACA recipient, he said it is important to include details about who they are.

He said student journalists should consider documenting the economic loss their communities may face from the loss of DACA students. He pointed out that DACA students pay tuition and taxes and are financial contributors in their communities and that their absence may cause financial hardship for those communities. **-30-**

Toothless



After campaigning on a promise to act as a watchdog over student government, the chosen editor-in-chief of a college paper was stripped of his official title by a panel of student senators.

By Marjorie Kirk

Florida journalism student Joe Pye thought he was home-free after winning the approval of his university's media advisory board. The staff at *The University Press* voted unanimously to make him the next editor-in-chief, and passing the rigorous vetting and interrogation of the advisory board was, at least in his mind, the last real hurdle he had to cross.

He was already formulating and executing plans for the next year when one underestimated formality brought him back to the present. He met with a panel of student government representatives who, because of a student government sanction that passed a few years ago, vote to confirm the editor-in-chief of the Florida Atlantic University school newspaper. Immediately after finding out about this practice, Pye questioned its ethical grounds. His adviser, previous editors and his staff agreed that an extension of the government choosing the leader of the editorially independent press that is supposed to serve as the public's watchdog was a violation of the First Amendment. He reached out to then-Student Press Law Center Executive Director Frank LoMonte, who concurred and added that he had never heard of a school that allows student government to have that kind of power. Pye, like every editor before him

for the last decade, went along with the formality, self-assured that no student politician would try to violate one of the fundamental rules of American government.

Read My Lips

Pye had campaigned on the promise of heavily scrutinizing the actions of the administration and Student Government. He had seen managing editors and beat reporters cover student government extensively, but they had graduated by the time the reins were being passed to him, so he wasn't sure what would happen if an editor took such an aggressive stance. When he asked more senior student journalists at his paper about what would happen if a candidate announced he'd serve as a watchdog of the university, they laughed and said the senators would vote him down.

He walked into his confirmation meeting confident that he could respond to any news-related question that had or hadn't already been posed to him in other interviews. The Student Government President even sits on the Student Media Advisory board, so at least one person in the room already heard Pye respond to the professional inquiries of actual journalists

and journalism instructors. When asked about what he intended to do as editor, Pye said his newspaper would fulfill the media's role of being a watchdog to Student Government and the administration. When asked if he would expand the print product to satellite campuses, he said it would not be an investment the paper could afford, but if Student Government wanted to provide bins, he would put papers there. Within five minutes the panel was done questioning and swiftly passed its verdict: 5-3, confirmation denied.

As was evident in the decision against Pye, this practice makes the relationship between the FAU Student Government and *The University Press* far from fair and independent. Not to say that all relationships between universities – public or private – and their student journalists are independent in nature, but First Amendment lawyers and journalists have denounced the action taken against Pye, calling it government censorship and overreach. *The University Press* receives a student fee, which Student Government distributes to different organizations on campus. This kind of relationship between institutions and the groups that report on them is not uncommon at universities and small community papers. Because Florida Atlantic is a public university, and thereby an extension of the government, it is prohibited from violating the First Amendment rights of its students. There are a number of cases where universities or their student governments have tried to revoke student

fees from student media because of stories they've published or stances they've taken. This practice is referred to as viewpoint discrimination, a form of censorship that Justin Hemlepp, Pye's attorney and a former student journalist, claims is happening at FAU.

"The student government has rejected the candidate for the editor-in-chief position based on his intentions to investigate that very student government and its concerns that more coverage of the satellite campuses was necessary," Hemlepp wrote in a letter to the university. "These are content- and viewpoint-

based concerns. Therefore, its rejection of Mr. Pye on those grounds – and the refusal, then, to fund Mr. Pye's raise in pay – appear to violate the First Amendment and other protections for speech and the press."

The Letter of the Law

In 2000, the U.S. Supreme Court reviewed viewpoint-based discrimination as it pertained to student fee allocation in *Board of Regents of University of Wisconsin v. Southworth*. In a unanimous decision, the Court decided, "when a university requires its students to pay fees to support the extracurricular speech of other students, all in the interest of open discussion, it may not prefer some viewpoints to others." Hemlepp wrote that as an extension of the university and therefore the government, FAU Student Government's refusal to confirm this editor and deny him the pay raise that comes out of student fees is viewpoint discrimination.

After the vote, Pye asked to speak on the matter and was told that he could not speak at that time, but could approach the subject in an appeal. He pursued the appeal, but his petition was denied by the Student Court. "*The University Press* receives activity and service fees and it is the Student Governments (sic) purpose to be stewards of this money," the court decided. "Therefore, the court concludes that the *University Press* should be held accountable to the Student Government."

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"The student government has rejected the candidate for the editor-in-chief position based on his intentions to investigate that very student government."

Justin Hemlepp, attorney representing Joe Pye
.....

Then he went to associate vice president for student outreach and diversity, Andrea I. Guzman. She affirmed the student government's decisions, and passed on the title of interim editor-in-chief and pay raise to the managing editor, Kerri-Marie Covington.

She refused to accept the position or the pay raise. Covington and the rest of the staff consider Pye to be the rightful editor, and he is listed as such on the newspaper's website. But even though Pye continues to lead the paper, and even if the students refuse the direction of the university or the student



government, they could both face adverse effects as a result. By refusing to pay Pye, he is denied payment for the work he is doing and by refusing to do what the student government wants, senators could vote to decrease or revoke their funding, as Pye said they did in the past when the staff wrote unfavorable stories about them.

At the end of his rope, Pye was prepared to take legal action against his university for its viewpoint censorship and to restore his lost wages. Joshua D. Glanzer, FAU's Assistant Vice President of Media Relations and Public Affairs, said that in response to Pye's situations and concerns raised by other members of the media connected to the university, the university would encourage the students to rethink the statute. "While this is a longstanding Student Government process that dates back to at least 2003, in light of questions raised following the Senate's decision with regard to Mr. Pye, FAU staff has encouraged Student Government to review the purpose, intent, and effectiveness of this process,

and consider alternatives and statute changes, where appropriate," he said.

Recent History

Pye said he knew the relationship between *The University Press* and Student Government has not been good. The newspaper's adviser, Michael Koretzky, has been punished for encouraging the students to pursue hard-hitting stories, he said. At a college media conference in Atlanta, he discussed the issues in the paper's relationship to Student Government with other journalists and media lawyers, who pointed out the ethical problems with the system. The policy that enacted this confirmation process is itself shrouded in secrecy and confusion. The impression at the newspaper, Pye said, is that 10 years ago a former director of student media or administrator had a problem with how *The University Press* was covering the administration and Student Government. As an excuse, the Student Government duty to allocate funds was used as a reason to give

them discretionary power over student media.

This discretionary power, outlined in an unpublished version of the Student Media Charter, does not apply to other student organizations. “I was amazed by this,” Pye said. “So the school’s pretty much giving the power of who covers the student government to the student government. That makes no sense.” Pye said he did not have many opportunities to cover student government before becoming editor, but prepared himself and a team of writers to cover it this coming year. His stance was no secret on campus, and he emphasized his intentions during all of his interviews.

In addition, his interactions with members of student government made it evident that he would not tolerate a lack of transparency. On a day prior to the student government confirmation, Pye noticed the door to the Student Government meeting rooms was closed with a piece of paper on it. He tried to open the door, but it was locked and he knew the Student Government President, a student governor and two student government advisers were inside meeting, contrary to open meeting rules. Pye said one Student Government adviser, Allison Rodgers, took particular grievance with him being present for the meeting, and even went to the Director of Student Media, Addiel Gomez, to have Pye removed from the meeting. Gomez told the student government staff that they shouldn’t be having private meetings and that Pye was allowed to be present. “I was suspicious of this particular Student Government adviser, Allison Rodgers,” Pye said. “It was very obvious that she was going to have it out for me after this.” Koretzky warned him that he rubbed Rodgers the wrong way and that she may try to make him out to be a hot head.

“Everything that I’ve said and done toward Student Government, I never used profanity with them, I just let it be known I am a journalist and I’m trying to cover Student Government.”

Rodgers declined to comment on the relationship between student government and the newspaper or the interaction with Pye.

A Conditional Victory

When he asked for a reasoning of the senators’ decision not to confirm him, Pye was told that he lacked tact and they did not like his conduct.

“I voted the way I voted because I felt that was right and I stand by that still today,” Shannon Nicolas, one of the senators who voted against Pye just before her own graduation, said. “I won’t discuss the issue with anyone because it is no longer my place to do so.” Other senators, including some who voted to confirm Pye believe that the confirmation process is redundant and against media independence. Nora Douglas, who voted for Pye and still serves in Student Government, said she thought the process was unnecessary because Pye proved himself with the other interviews and votes. Pye said that during the meeting one of the senators even remarked that the confirmation seemed a bit strange, echoing the thoughts of the journalism community that opposed the practice. A few months after Pye retained his lawyer, conveyed to the school that he had every intention of remaining in his position and that he would sue for his wages if they were not given to him, Pye was appointed editor of *The University Press*. He had to be reinterviewed by the Student Media Advisory Board and confirmed by the Associate Vice President of Student Affairs, but nonetheless this time the votes came out unanimously. The school’s statute remains in place, and while the Student Media Advisory Board is working with other departments to discuss change, those efforts were postponed in the wake of Hurricane Irma. **-30-**

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“So the school’s pretty much giving the power of who covers the student government to the student government. That makes no sense.”

Joe Pye, editor-in-chief of *The University Press*

NEW VOICES

Society of Professional Journalists praises the SPLC's New Voices initiative

WHEREAS the Student Press Law Center has since 2015 created volunteer coalitions across the United States called **New Voices** to expand the free press guarantees of the First Amendment to student journalists and the student press at the high school and college level;

WHEREAS, as SPLC noted in its grant report to the Sigma Delta Chi Foundation, “the need for New Voices has grown more urgent after the heated anti-media rhetoric of the last national political campaign;

WHEREAS the New Voices effort yielded resounding success in 2017, resulting in freedom of the student press being guaranteed by law in **Nevada, Vermont and Rhode Island**;

WHEREAS **North Dakota** expanded the protections of its 2015 free student press law by enacting another law adding protection for student media advisers from retaliation;

WHEREAS the 2017 legislative action in these states followed similar laws in **Illinois and Maryland** and brought to 13 the number of states with statutes or education codes that protect student journalists’ right of free expression;

WHEREAS the American Bar Association House of Delegates unanimously endorsed support for the movement for prohibiting the censorship of student journalism;

WHEREAS these victories could not have been accomplished without the organizing and legal expertise of the Student Press Law Center and its grassroots volunteers;

THEREFORE BE IT RESOLVED that the Society of Professional Journalists, meeting in convention in Anaheim, California on September 9, 2017, commends the work of the SPLC and its former executive director Frank LoMonte for their untiring efforts to undo the ill effects of the 1988 Hazelwood decision of the U.S. Supreme Court.

BE IT FURTHER RESOLVED that the Society endorses the continued efforts of the SPLC and its new executive director, Hadar Harris, to take the fight for student free expression to **all 50 states**.



Pick up the mic, and join the movement.
Visit newvoicesus.com to join a campaign in your state, or learn how to start your own campaign.

To Boldly Go...

Newspapers large and small have struggled to adjust to digital formats while retaining revenue. College papers are on the forefront of that struggle.

By Sophie Gordon

As print pick-up rates drop and readers head online, more and more college newspapers are finding themselves in a tricky predicament: make the move and lose print revenue or remain behind and watch print continue to decline.

Louisiana State University's *The Daily Reveille* made the decision to move toward digital last fall and felt its repercussions during the Spring 2017 semester. The *Indiana Daily Student* at Indiana University looks to follow this fall. And then there's the *Muleskinner* at the University of Central Missouri, which is quickly moving to a digital-only format when it was put on a one-year abeyance.

These college papers, like many others across the nation, must learn to deal with declining revenue, audiences shifting to online and mobile and the pressure to be a 24-hour news source.

Taking on the Transition

When Steve Buttry took over as adviser at LSU's *Daily Reveille*, he knew he wanted to take the paper in a new direction. As someone who believed professional papers made a mistake in being on the digital defense, his vision for the *Reveille* included taking the print product down from five days a week to two and focusing on the website. The students decided to take things a step further and in October 2016 announced that the *Daily Reveille* would become a weekly paper.

Taylor Potter, the editor-in-chief of the *Reveille*, was part of the editorial board that made the decision. The students wanted to reduce print costs, grow their digital footprint, and reach their readers where they're at: online.

"I do think it's necessary because most of us that are working for college newspapers aren't going

to work for a daily newspaper, at least not for very long," Potter said. "We're going to end up working for digital-first publications, so I guess we'd better get used to it."

The *Reveille* ran into its fair share of bumps. In February of this year, Buttry died of pancreatic cancer. Shortly thereafter, the sales manager left for maternity leave. Then, the paper was left with an interim director of student media and a staff that was struggling to tackle a digital-first newsroom.

"It's just been chaotic here," said John Friscia, the interim director. "We were just trying to keep our heads above water and all make it to the end of the semester, which we did. And I guess going into the fall here, hopefully we'll be able to sit down and start making some headway toward how we can turn this ship around a bit."

Perhaps the *Indiana Daily Student* can learn from the *Reveille*. IU's 150-year-old paper announced in March that it would cut down from five print days a week to two. According to Ron Johnson, the IU director of student media, this change had been in the works for a few years as they tracked trends in advertising.

"[The shift is due to] income reductions from advertising," Johnson said. "You've got to understand that there's income that pays for that newsroom function. And that income has to come from somewhere. ... What's happening, though, is that ... we have to transform our business model. It's extremely unclear how that will resolve itself."

For Jamie Zega, the announcement solidified her decision to run for editor-in-chief. When she begins running the newsroom this fall, she plans on working with her staff to diversify the *IDS*'s content.

"[A challenge will be] just trying to diversify what

we as the *Indiana Daily Student* define as a journalist and as a content creator,” Zega said. “It’s not just about the stories. And the stories will obviously be just as important, and especially in these times, stories are very important, and making sure that we are still committed to the written word and doing it well and accurately. That’s still going to be very important. But we also know that realistically with our audience we do need to focus on things that are outside that realm of the vegetable news and get into like the cake, the stuff that people want to read, because that’s how we get them to eat their vegetables.”

Another challenge that comes with prioritizing digital is getting the staff to work on a digital-first schedule. Potter said the *Reveille* improved over the semester on getting stories up faster and breaking news, then going back and adding more information as it became available. Students also worked on redesigning the website and utilizing more multimedia content. Potter hopes more improvements come with the new semester.

“I think that last semester we were still very focused on that weekly print product,” Potter said. “We were still working around a print schedule. I don’t think it was nearly as successful as it could have been. It was really hard to just get everyone’s mentality changed ... I think you have to reevaluate every step of the process. If you’re still doing things the same way you did then when you were a daily, then you’re not doing it right. I think that’s the big thing.”

Zega said working on getting her staff’s mentality changed is a big priority as the *IDS* makes this switch. “I think one of the biggest challenges is trying to get our staff into the mindset of being a 24-hour newsroom. Not physically, but in mindset. Especially because our usual...our days were like 11 a.m. to midnight. Come in, talk about what’s going to go into the paper, make a paper, and then you go home and that’s that. And unless there’s breaking news, you’re done for the night. Whereas now, we only have two days of making a paper, and that’s three more days of the work week that we still expect people in the newsroom, and we still expect them to be doing work. It’s just not going to be about filling in their pages.”

Costly Cuts

Johnson attributes the *IDS*’s decision to focus on digital to the decline in print advertising revenue. The staff hopes cutting print costs will help counter this difference.

“The cost of printing is one thing, but the income from print advertising is significant and that’s what’s driving the changes across the country,” Johnson said. “You talk about the expense, yes, but on the flip side of it, it’s the income that’s dramatically [declining] from print advertising, including national advertising.”

Though the *Reveille* was able to cut printing costs, the money it saved did not compare to the money it lost by losing print advertising revenue. In its first semester as a weekly paper, the *Reveille* generated less than half the amount of revenue it made in Spring 2016.

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“We ... need to focus on things that are outside that realm of the vegetable news and get into like the cake, the stuff that people want to read, because that’s how we get them to eat their vegetables.”

Jamie Zega, editor-in-chief of *Indiana Daily Student*

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“We have seen the print drop off a little bit,” Friscia said. “We have not seen the digital replace it. Quite frankly, you just you can’t recoup it. It’s probably a dime on the dollar. For every dollar that was spent in print, you may be recovering a dime on the digital side. We’ve done everything we can on our budget as far as tightening down and really watching what we spend in payroll, and supplies and travel and things like that have really been cut down to the minimum. There’s really only one way to make that up now, and that’s going to be to have to get our revenue numbers back up.”

This isn’t an uncommon problem. As reported by The Poynter Institute in 2016, many college newspapers that cut back print days are struggling to find ways to make up that lost revenue. Advertisers still prioritize print advertisements,

despite audiences increasingly going online. And this trend isn't just affecting college newspapers; commercial newspapers are feeling the effects, as well. Now newspapers are challenged to find other ways to appease advertisers while still catering to their audiences.

The *Reveille* and *IDS* may want to take a page out of *The Underground's* book. A student-run organization at Penn State, *The Underground* started as a completely online multicultural media site in 2015. Though relatively new, the site now makes enough revenue to cover its maintenance costs. (Note: The staff of *The Underground* is all volunteer and maintenance fees are around \$200 a year.)

"I know that a lot of schools are really into that kind of traditional sense and the importance of having a paper magazine," *The Underground* Editor-in Chief Adriana Lacy said, "but for the most part, I think going digital is the best choice just because not only do you save so much money, but you really don't have to worry about those time restrictions of getting things done by like a certain time every night, so if you don't print, then all those other restrictions are removed."

The Underground conducts audience surveys each semester to determine what content its readers want to see. It also uses this time to determine how it can better engage Penn State students.

"We're trying to sponsor some events on campus, whether that's bringing a speaker to campus or moderating debates, giving our free things in our student center, just kind of things that will really get students engaged," Lacy said.

The Underground is actually planning to add a semesterly print magazine to its repertoire. In order to do this, the staff needs to find more ways to increase revenue. Lacy isn't short of any ideas, however.

"This fall we are actually looking into more creative ways to get more revenue," Lacy said. "So for example, we're launching a few podcasts this fall, some that are kind of political, some that are focused on multicultural issues and LGBTQ issues. So we're actually looking into actually getting sponsors for the specific podcasts. Another option that we're looking at is doing photography or design for different organizations and clubs to kind of raise

money that way."

The *IDS* is already thinking of ways it might try to increase ad revenue. One option is following commercial news outlets and offering native ads.

"We've looked at that carefully," Johnson said. "We may be offering some hybrid of that. But the important thing with something like that, if you do it, of course, is to make sure that it's clearly labeled so readers understand what it is."

For both the *Reveille* and the *IDS*, one thing is clear: "At the end of the day, I don't think [digital advertising is] going to be the silver bullet," Friscia said. "It's still going to be a hybrid of print and digital. There's still not enough money to be made on the digital side to just walk away from print."

Facing the Future

With one semester under its belt, the *Reveille* is coming back in the fall with an improved plan of action. The staff has already decided to switch its print day from Thursday to Wednesday in an effort to improve pick-up rates. For the website, the *Reveille* will continue to follow analytics and develop better digital strategies.

"I think you really have to be a hybrid operation. You have to do both really well," Friscia said. "I wouldn't by any means tell anybody to just pack up print and go digital only -- not for a college paper. I think for a college newspaper, there's still a good value in print advertising for small, local businesses. They still need that outlet."

The *IDS* is taking a similar approach. Zega wants to make the *IDS* the students' go-to source for what's going on on campus by creating content they care about, whether that's food videos, how to file taxes tutorials or movie reviews. She's ready to tackle the upcoming semester and lead her staff into a digital-first era.

"This is a whole new world for all of us," Zega said, "but to have people who have ... seen the *IDS* change over decades, that will be especially helpful to have their knowledge and their wisdom because we will make mistakes - it's something I'm already trying to confront is that we will make mistakes -- but it's a matter of how we learn from them and how we bounce back from them." -30-

Legal Analysis

Data, or it didn't happen: Getting the numbers on college censorship

By Lindsie Trego

In February 2016, editors at *The Daily Kansan* sued two University of Kansas administrators for First Amendment violations. Why? The editors alleged that administrators had signed off on a \$45,000 cut to *The Kansan's* budget designed by student government members to retaliate against the newspaper for publishing an editorial they didn't like.

After the candidates for president and vice president that had won the majority vote were declared ineligible, the runners-up received the leadership positions. *The Kansan* published an editorial calling the campaign policies confusing and suggesting changes to the election system to prevent similar occurrences in future elections. In the wake of the editorial's publication, the runners-up were temporarily removed from their offices and had to win a reelection in order to retain their positions (which they did). After the reelection, the student government cut *The Kansan's* budget in the midst of a discussion of the editorial, even reading part of the editorial during the funding meeting. The university administration then approved the funding reduction.

The Kansan regained its full funding after filing the suit, but this case raises questions even when we aren't in Kansas anymore. How often do student newspapers face retaliation that doesn't result in a lawsuit? What other types of official pressures do campus newspapers face? The past few years have seen many cases of student media censorship make the headlines: There was the newspaper at Fairmont

State University that lost its adviser after reporting on toxic mold in dorms, the publication at Louisiana State University Law Center that became subject to prior review by an official diversity taskforce, and the newspaper at the University of Memphis that faced funding cuts criticizing the university for its response to sexual assault. Even with these news reports, the question remains: Are these cases the exception or the rule when it comes to censorship and student media? With these questions in mind and the looming requirement of completing a thesis for my master's degree, I designed this work-in-progress study to examine the prevalence of censoring practices experienced by newspaper editors at public, four-year colleges. To answer these questions, I sent a survey to the editor of every flagship newspaper at public, four-year colleges to find out how they experience censorship.

Legal Framework: When Can Colleges Censor Student Newspapers?

The Supreme Court first recognized the importance of free expression on college campuses in 1967 in a decision called *Keyishian v. Board of Regents*. In this seminal decision, the Court announced that “[t]he classroom is peculiarly the ‘marketplace of ideas.’ The Nation’s future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth.” The Court affirmed this ideal five years later in *Healy v. James*, “not[ing]

that state colleges and universities are not enclaves immune from the sweep of the First Amendment.” Thus, there’s no doubt that college students, including student journalists, enjoy First Amendment protections.

Probably the most famous student speech case, though, came in 1969 and didn’t deal with colleges at all: The oft-quoted *Tinker v. Des Moines Independent Community School District* case considered the rights of junior high students to peacefully protest at school. In that case, the Court held that “[i]t can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Thus, the Court said, public schools may only censor student expression that is likely to substantially disrupt the school environment or invade the rights of others. Many courts have applied this test to college student

expression (including to college student newspapers), though some courts have noted that *Tinker* does not provide enough protection for the speech rights of adult college students.

The Supreme Court scaled back First Amendment protection for student journalists in *Hazelwood School District v. Kuhlmeier* (1988). In that case, the Court decided that when it comes to school-sponsored, curricular, student publications at K-12 schools, administrators can “exercis[e] editorial control over the style and content of student speech . . . so long as their actions are reasonably related to legitimate pedagogical concerns.” This is the relevant standard, the Court said, unless the publication is designated “by policy or practice” as a forum for student expression. In other words, if we’re looking at non-curricular K-12 student speech, *Tinker* applies, and schools may only censor



for substantial disruptions or invasion of others' rights. Same if we're looking at student speech in publications that have been set aside as forums. But when a student speaks in a curricular publication, schools may censor the student for any "legitimate pedagogical" reason.

When the *Hazelwood* decision first came down, a lot of scholars expected it to only apply to K-12 student journalists. After all, the case had been about a high school newspaper and the Court's opinion

The Short Version:

- Legal intern Lindsay Trego designed a study centered around surveying college newspapers to discover the nature and extent of censorship.
- The 1967 Supreme Court Decision *Keyishian v. Board of Regents* first established free speech rights for colleges and universities.
- This was affirmed five years later in *Healy v. James*, with a burn only the Supreme Court could deliver: "state colleges and universities are not enclaves immune from the sweep of the First Amendment."
- Trego submitted censorship surveys to every flagship publication at a public four-year college in the U.S.
- 199 editors, 37 percent of the survey group, responded.
- Among them, more than 60 percent reported some form of censorship in the last year, with the most common instance involving a request by administrators not to publish something.

had included a footnote cautioning that the Court did not decide whether *Hazelwood* would apply in the college context. However, courts soon followed with applications of *Hazelwood* to college student publications, including in the Seventh Circuit case *Hosty v. Carter*. Only the Sixth Circuit has explicitly rejected applying *Hazelwood* to college students. Meanwhile, some states have passed New Voices legislation – anti-*Hazelwood* laws designed to reestablish *Tinker* as the applicable test for

censorship of student journalists' expression.

To get back to our original question: When can colleges censor student newspapers? The answer is, it's complicated. Because of the jurisdictional split on the application of *Hazelwood* and silence on the issue in other jurisdictions, it is hard to say for certain when public colleges can censor student media. What is certain, however, is that content-based and viewpoint-based restrictions that are not based on legitimate pedagogical concerns are barred whether analyzed under *Hazelwood*, *Tinker*, or a more liberal test. However, regardless of when college administrators can censor student newspapers, an important question remains: Should college administrators censor student newspapers? When the college campus is the "peculiar[] marketplace of ideas" in the United States, is it good policy for student newspapers – which often provide a launching point for wider campus discussions – to face official censorship? With these contours in mind, this study seeks not to examine whether administrators censor only when they legally are allowed to censor, but to examine whether they censor at all.

What Do We Already Know About Censorship of College Publications?

Recent research shows us that editors and advisers overwhelmingly believe that editors have the main thrust of control over college student publications. However, one recent survey of college newspaper editors found that a substantial minority (42 percent) believe censorship is a problem for their publications. On the other hand, that same study found that advisers and administrators do not believe that censorship is a problem for student newspapers. While we know a bit about perceptions of control and censorship at college newspapers, recent social science doesn't tell us much about how student newspaper staff

members experience censorship, or the prevalence of specific practices. Getting back to the examples talked about in the above, recent studies don't tell us how often student newspapers face funding cuts, removal of advisers, or staff discipline.

Some studies were done in the 1950s and 1960s to look at these numbers: In 1965, only 49 percent of public colleges had specific policies against prior restraint, for example. In 1969, a study found that 28 percent of newspapers at small colleges had experienced someone other than student staff members making content decisions for the publication. A few more studies were done to examine censorship of college newspapers in the 1980s and 1990s: For example, in 1993 a researcher conducted in-depth interviews with editors at public college newspapers in the Midwest and found that the editors reported trends of administrative oversight. A survey was done in 1992 to examine censorship at California community colleges, and it was revealed that many such newspapers faced prior review and prior restraint, as well as subtle pressures to "tone down" stories. A lot has changed since the 1990s. Administrations have grown, federal regulation of higher education has increased, and student newspapers have begun publishing online. Thus, it would be a mistake to assume the censorship landscape at public college newspapers looks the same now as it did in the '90s, and it would certainly be a mistake to assume the landscape looks the same now as it did in the '60s. This study-in-progress seeks to look at this landscape now: How prevalently do student newspapers specifically experience censoring practices from college officials?

Exploring Censorship of College Newspapers: The Survey

To start to answer these questions, an electronic

survey was sent to editors at every flagship newspaper at a public, four-year college in the U.S. The survey asked about things related to content control, but for the purposes of this sneak preview, we'll focus on the questions about administrative censorship. The survey asked editors how often they experienced a number of administrative censoring practices, including prior review, funding cuts, scholarship cuts, and job dismissal. The survey was completed by 199 editors, or about 37 percent of all editors of flagship papers at public, four-year colleges.

The results: More than 60 percent of editors who took the survey reported experiencing at least one instance of administrative censorship in a one-year period. This number breaks down like this: 51.9 percent reported a staff member being asked by administration not to publish something; 23.3 percent reported being threatened with funding cuts because of newspaper content; 7.4 percent reported a staff member's job being threatened; and 7.2 percent reported a staff member facing disciplinary action. Still others faced administrative actions that have historically been used as subtle forms of censorship: 66.1 percent reported administration contacting the newspaper to discuss a story prior to publication (not including responses to interview requests) and 81.1 percent reported administration contacting the newspaper to discuss a story after publication.

Thankfully, most editors who report experiencing administrative censorship say it doesn't happen often. The average for administrative requests not to publish something was 1.76, on a scale where 1=never and 5=very often. Thus, most editors are saying administrations either never or rarely ask them not to publish something, but 51.9 percent say they have experienced this at least once in the past year. In other words, a lot of editors are saying they experience censorship, but not very often. Even

if 60.2 percent of student newspapers experience censorship only once per year, that's still more than 320 instances of censorship at college newspapers across the country each year. So, administrative censorship of public college newspapers might be like the flu: Nearly everyone gets it once or twice a year, but only a fraction of the population gets it so bad that it sends them to the hospital, and an even smaller fraction gets it so bad that it's potentially fatal.

What's Next: Expanding the Survey & More Data Analysis

While these results begin to answer the question of how prevalent certain censoring practices are among college newspapers, they don't tell the full story. This project is a work in progress, and will include a survey of college administrators to explore their attitudes toward student journalism and to discover how often they believe they are engaging in censoring practices. When complete, the project will examine whether student newspaper editors experience content pressures from sources other than college administrators, and will look at how often they comply with content pressures from various people and groups. Finally, the project will look at how editors' personal characteristics, colleges' institutional characteristics, and newspapers' organizational characteristics might influence how often newspapers face censorship. **-30-**

ON THE DOCKET

Court rules personnel file be released to student reporter

The Winnebago County Circuit Court ruled in favor of student reporter Alex Nemeč Sept. 20, denying a professor's petition to prevent the University of Wisconsin at Oshkosh from releasing his records. In March, business professor Willis Hagan was removed from campus during a class lecture. Nemeč, editor-in-chief for *The Advance-Titan*, requested Hagan's emails for the spring semester and any relevant university police reports. The university records custodian declined to release the records, initially, but later agreed. That's when Hagan filed his petition and Nemeč responded with a motion to intervene. The judge's ruling was a significant step, but Hagan has appealed, so the records still haven't been released.

SPLC files amicus in support of releasing UNC sexual assault records

The Student Press Law Center filed an amicus brief in support of the *Daily Tar-Heel*, the independent student newspaper at the University of North Carolina – Chapel Hill. The *Tar Heel* filed an open records request in October 2016 for all UNC records detailing students or faculty found responsible for sexual assault or sexual harassment. The university denied the request, and the *Tar Heel* filed a joint suit alongside several local media outlets. In May 2017, the trial-court judge ruled in UNC's favor, and the media organizations appealed to the North Carolina Court of Appeals. SPLC's brief stands in support of the *Tar Heel* and the rest of the co-plaintiffs.

Free speech organizations file brief in support of South Carolina student

Several free speech organizations filed an amicus brief Sept. 13 in support of a University of South Carolina student suing his university. In November 2015, Ross Abbott, a student at USC held an event on campus discussing free speech issues. The event, held with the support of the Young Americans for Liberty and College Libertarians, scrutinized questionable university free speech practices across the country. The organizers employed images including a swastika poster to highlight an incident at George Washington University where a fraternity member was suspended for displaying a bronze swastika in an educational presentation to his fraternity and a crib to represent campus "safe spaces." After several students filed discrimination complaints, the university started an investigation. USC ultimately declined to pursue the matter after a handful of interviews, but Abbott, Young Americans for Liberty and College Libertarians filed a joint lawsuit in 2016. They lost their initial case and appealed to the 4th Circuit U.S. Court of Appeals, where the amicus brief was filed shortly after.

STUDENT PRESS LAW CENTER
 1608 Rhode Island Ave NW, Suite 211
 Washington, D.C. 20036
 Phone: (202) 785-5450
 Website: splc.org

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